

CAMDEN PLANNING BOARD SPECIAL MEETING

Minutes of Meeting

February 10, 2010

PRESENT: Chair Chris MacLean; Members: Richard Householder, Jan MacKinnon, Kerry Sabanty and Lowrie Sargent; Alternate Member Nancy McConnel and Sid Lindsley; Select Board member Deb Dodge; and CEO Jeff Nims.

PUBLIC COMMENT: No one came forward.

MINUTES:

The Recording Secretary was absent. Minutes will be reviewed at the next meeting.

PROPOSED ZONING AMENDMENTS

Susan Howland, Chair of the Downtown Business Association, had invited all of the Planning Board members to meet with the Executive Board of the group. If more than two Board members had attended it would have constituted a meeting of the Planning Board, so only Mr. MacLean and Mr. Sargent attended the meeting last night. Mr. Sargent had prepared a presentation to describe the Board's thought process in developing the Design Standards and to describe them. The group had many questions, and some of those questions suggested to the Chair and Mr. Sargent that either the Board had not done a good job of describing the design standards, or there is a lot of misinformation being circulated. It appears that this group was under the impression that all businesses would eventually have to comply with the Design Standards – either when they renovated their current space or when the business/space changed hands. They were under the assumption that if they were to make any changes to the interior of their buildings, that they would then have to bring their flat roof into compliance with the new roof design standards and paint their building a new and approved color (e.g.). The confusion came from a misunderstanding of the difference between the Design Standards and the separate amendment to require a "Use Permit" when a business changes hands or use. These are two totally different issues that had been confused and intermingled into one proposal by some, and this led to the totally incorrect perception of what the Board was trying to do. All of these business owners had been in business about 20 years or more, and the Chair and Mr. Sargent became concerned that the level of misunderstanding of the proposal by the general public could be even worse than it was among the members of this group – some of whom had even been part of the drafting process.

Ms. MacKinnon asked if they had discussed what the talking points would be if the Board was to go through a clarification process.

Mr. MacLean explained that they had tried to address specific concerns, and it seemed that several in the group finally understood the intent of the standards, and that their original positions of opposition changed somewhat. There were those who remained opposed - paint color was a large concern – and even when provided with detailed explanations, a few of the Association members remained firm in their opposition. The fear was that the Board would turn into the "color police". That and other misinterpretations could not be explained away by either of the Board's representatives. Ms. MacKinnon noted that it was odd that there was so much opposition to looking at colors, when it would have been a color standard that would have been

used to deal with the opposition to the pink and orange of Dunkin' Donuts. The Chair replied that he tried to use different examples of garish paint schemes that the Board may want to take a look at under the proposal, but those opposed to regulating paint colors stayed firmly opposed.

The discussion with the group then turned to formula businesses and whether or not these standards would work to stop these businesses. Mr. Sargent explained that it was not the Board's intent to prohibit any business, but that some franchises may be dissuaded if they wouldn't be able to do business as usual. The talk then turned to the moratorium and what had happened to all the enthusiasm for that effort. The group suggested that if this situation (a franchise coming to Town) were to come around again, support for a moratorium would be greatly reduced – many of the original signers now realize that moratoriums are a bad way to respond. However, until they were informed, many did not like this current proposal either – there is a lot of educating to do.

However, the Chair has reached the conclusion that no amount of education will help sway voters. There are those who will support the proposal because they trust the Planning Board to do a good job, and those who will oppose it simply because it is another regulation. Right now, the outcome of a vote will probably depend on which group is more vocal. The Chair suggests two ways to proceed: 1st. Make some changes/fixes to address concerns and go forward to June; 2nd. Hold off on June and work to do two things: make the proposal better by working longer on the concerns raised, and work with those who might matter in the public discourse to help voters feel more comfortable with it.

He suggests moving forward to June, making some of the recommended changes, but keeping the concept they have come to pretty much intact. He realizes that there will be some who will object to the whole because of a disagreement with one provision (like color) because it is perceived as over regulation. He feels this is a small piece of the whole that would probably not have an impact on any existing business downtown, but that it could be one of the things that would help preserve property values.

Mr. Sargent: He agrees that there were a wide range of opinions among those present – some of them valid, but some of them based on a misunderstanding of the proposal. The two were told that because no-one on the Planning Board had been on the Board for the same twenty years that members of the group had been in business, that the Board was not qualified to make a decision about colors; that didn't sit well with Mr. Sargent. Then there were those who suggested that help with selecting colors would be a good thing. They heard both sides. This morning he spoke with Martin Cates (CEDAC Chair) who wanted to let Mr. Sargent know that he had heard from four business owners in Town – some long-time – who expressed concerns about the standards. Mr. Sargent had come to the conclusion that there are two dynamics working:

First of all he has come to the conclusion that putting the standards forward at the same time the Use Permit is being proposed is too confusing and could do in the whole warrant – it is too tough to understand.

Then, the callers to Mr. Cates had expressed their opinion that the original concerns about formula businesses have not been addressed by these standards – to them the threat is still there, and so is the possibility that those who were concerned about formula businesses could come back with a petition. The callers also made the point that although the Design Standards were supposed to be a business-friendly change to the Ordinance, in these economic times especially, they won't be perceived as such. They are perceived as an obstacle when there really hasn't been a problem.

He sees two obstacles to going forward: There is confusion due in part to the fact that the Board didn't explain things as well as they should have; and there is resentment to what is perceived as interference. He sees very little chance of this passing if it goes to a ballot. If an ordinance will be confusing or people think it is unfair it is of no benefit to the Town. He thinks they could get the ordinance in shape to pass, but not in the timeframe they have now. He thinks they should set the proposal to the side for now and say they want to learn more – perhaps from a Worksession with downtown business owners; they can be asked what, if anything, they think needs to be controlled; and then asked how can that be done. This tact has been useful in the past, and he suggests involving more people and trying again. The Board may have time to get the language right – clear and concise and understandable, but they don't have time to help people understand the proposal when so much else – like Gateway 1 and TIFs are being presented as well.

Mr. Householder: Did the Downtown Business Association have an opinion about formulated businesses? The group had surveyed their membership with regard to a formula business ordinance and responses suggested that they were not concerned about formula businesses but they were concerned about the appearance of the downtown. What they did clearly say is that they wanted the Board to develop some standards that would govern what the buildings did look like – and that is what the Board did, taking their lead from that survey.

Mr. Householder responded to this answer by saying that it appeared that they wanted Design Standards, but that they did not want to be told what they could and couldn't do. Did the group respond to the Belfast model of a Design Review Committee? Mr. MacLean replied that they were quite hostile to that idea. Mr. Sargent believes that there is some acceptance of some Design Standards – just not these.

Ms. MacKinnon: Understands the concern that membership on the Planning Board may change. While this Board prefers the “squishy” language that would make this process an opportunity for public input when there is something a little off-beat about a proposal, there is no guarantee that the same mindset will continue into the future on the Board. Just as there is no guarantee that when a downtown property owner, who is conscientious, sells their property that it will be to someone else who feels the same way about maintaining the character and being responsible.

Mr. Householder: One thing the Board consistently hears is the need to preserve the character of the Town. The Board has asked him to work on a Purpose Section and he has been working with Mr. Nims on that. The Comprehensive Plan plays a major role in defining this purpose and he is asking: what are the goals of the Plan? What is the “character” referenced in the Plan? And, what are the businesses that will be affected? He thinks they can come up with some standards – perhaps Design is the wrong term to use. He also wonders if they should reconsider using so much squishy language and be a little more specific – especially in defining the triggers. He tends to agree with Mr. Sargent that there is not time to make these changes plausible for June, and thinks the proposal should be set aside for November.

Ms. McConnel: Has been thinking about the moratorium and talking to people about that. She has come to think that there were just a few people who stirred up a hullabaloo - with the help of electronic devices they got all kinds of people involved and forced the situation on the Board. But people have backed away from that position. They are asking themselves why they even signed the petition, and now seem to feel things have been going along fine. They are thinking maybe the Board should just leave this alone. If the Board tries to pass this as is and it fails, it is done. If the Board wants to keep working on it and improve it that's fine, but people are generally happy with the status quo.

Mr. Sabanty: Has also talked to some people and is thinking along the same lines as Mr. Sargent – put it aside for now and think about it. If they feel strongly that they should take it back up and work on it to address peoples' concerns (like with colors) he can support that.

Mr. Lindsley: Is of the opinion that it should be held back, and also believes that the group working on the proposal should be expanded. There were successes previously doing this – having a larger, diverse group write ordinances. That practice changed to allowing only a few to write ordinances, and he thinks that was a mistake especially with something like this proposal. The Board should be having the downtown group writing the ordinance with them. He doesn't think it is dead – it can be turned around. But if people are stirred up again by those who are afraid of franchises, then the Board will see something happen they don't want that will be put forward by these people.

Ms. McConnell clarified that she did not believe the Board should drop the concept, but that now was not the time to go forward. The work has been perceived to be anti-business and she doesn't think the Board can overcome that perception in the short time they would have to make the June vote; they just have to keep their fingers crossed that something doesn't come up to cause another moratorium effort. Ms. MacKinnon suggested that even with an ordinance amendment in place there is still a chance for another moratorium – the irony being that a moratorium is a much more anti-business statement. Ms. McConnell doesn't think that as many people would go along with such an effort next time, and thinks the effort would not be successful – it may not even get off the ground.

Mr. Sargent: Suggests that having an opportunity to combine the work they have proposed as addressing protection of the historic aspects of the downtown ready to go at the same time the Design Standards are sent forward is a better way to go. With additional time, they can bring in members of the Downtown Business Association to work on standards at the same time a group is working on the historic aspects. They can then offer a more complete amendment. Mr. Householder suggests that with the public endorsement by the Downtown Business Association – or whatever group is brought together to work on changes, would help get the proposal passed. Having them sit on a subcommittee is a good idea.

Ms. MacKinnon suggests hearing from the groups involved in drafting with regular updates to the Board. Mr. Householder suggests asking the Downtown Business Association to recommend five people to sit on this subcommittee.

Mr. MacLean noted that it is clear that the consensus of the Board is to put this off. For discussion's sake, he shared his opposing point of view:

- The Board started the process about 1 year ago and has heard from various groups, even inviting diverse groups in to offer comments when they thought they needed different points of view.
- The Downtown Business Association conducted a survey of their membership regarding the Board's proposal – those results were shared with the Board and used in drafting.
- The Board has held several public hearings – even going to the Opera House to accommodate large crowds.
- They have discussed this for hours and hours at nearly every meeting over the past year.
- Susan Howland, Co-chair of the Downtown Business Association, has come to many meetings to offer her feedback, as have other people.

- The Board has worked very hard to accommodate the concerns they have heard and to create a pro-business proposal.
- The proposal is extremely deferential to businesses because the Board wanted to create an incentive to avoid any suggestion of the need for another moratorium which is extremely harmful to businesses because it is so anti-business.

Mr. MacLean referenced his change of mind over time from being supportive of banning franchises to compromising and supporting the current proposal.

He noted that he and Mr. Householder had let their support for including historic features in this proposal go, and noted their compromise with the Board on forming a subcommittee to work on that issue.

He believes the Board worked hard on coming to agreement on what he considers to be a very good plan. They heard some valid concerns at the most recent Public Information Meeting that they agreed needed addressing – like the color, timing and lighting issues.

But he didn't hear anything at the meeting last night that he hadn't heard at the Public Information Meeting – he thinks the fixes will be easy to do. He does not find the argument compelling that including the Use Permit on the same warrant makes things confusing. It may be that some people don't understand that there is no connection between the two, but that shouldn't be a reason to put this proposal aside.

He agrees that there are some very vocal opponents within the Downtown Business Association, but does not think that the Board is only beholden to this group. Their concerns are important, but there are others with valid concerns that must be considered as well, people whose concerns they have also heard. It does offend him a little bit that after a year of work that there are those in the DBA that are stridently opposed – and that much of this opposition appears to be based on misinformation. For those opponents to come forward so late in the process without having ever given input, especially when the Board's product is based in large part on the input from the group that they did receive, also offends him.

A week ago all members of the Board agreed that this was a good and well-considered proposal. But now a few members of the business community have come forward expressing some concerns that can easily be addressed - he believes that it is not reason enough to put this aside to work on at a later time. This delay does not seem a wise approach when they created a good product. He thinks that they owe it to the voters to send this forward – the voters can decide whether or not they want it – if it is a good idea or not.

Mr. Householder: Agrees with Mr. MacLean, but the fact is that there are two elements in Town that have voiced opposition to this proposal: the group that is still demanding controls on formula businesses and a group of businesses that is opposed to the Design Standards. Unfortunately, word gets around, and whether the facts are right or wrong, the Board has an ordinance that has a high probability of being defeated. Considering once it is defeated, getting it back on the ballot will take three times as much work as it will if it presented to the voters correctly the first time. It behooves the board to hold off and tweak it until there is some element of the Town that can support it.

Ms. MacKinnon asks if the Board actually heard from anyone who gave the proposal a resounding “Yes” – or even a marginal “Yes”. Mr. MacLean notes that those in support of an ordinance change usually don't turn out.

Mr. Sargent: Also agrees with Mr. MacLean that it is very frustrating that people chose the very last minute to voice opposition. Where were they all along?

Ms. MacKinnon: Holding off is not scrapping the whole idea. She thinks the proposal can be improved with tweaking, but she doesn't think they can ignore the opposition they have heard in the past week. It is hard to hear these concerns and forge ahead anyway, especially when it comes to going before the Select Board – who knows what will happen there.

Mr. Sargent: Thinks the Board needs to give time for the bad feelings to dissipate and to give a wider range of people a chance to share their ideas. He thinks they are most of the way there, but knows they will only have one chance, and he seriously doubts that they would be successful right now.

Mr. Householder suggests that they concentrate on the Purpose as to what their intentions are, and if they can come to an agreement about that Purpose they can use that as a lead-in to discussions with other groups.

Mr. Nims responded to the question of whether or not the Board needed to vote on setting the proposal aside for now: He suggests that the decision does not have to be made this evening. The Board can go forward to a formal Public Hearing to receive comments – they can let the public know that the majority of the Board has reservations about sending this forward right now, but at least they can hear from the public one or two more times. If the opposition is so clear at the first Public Hearing the Board can always set the proposal aside at that time.

MOTION by Mr. Lindsley seconded by Ms. MacKinnon to stop any further consideration of sending the proposal to a Public Hearing or taking any other action that would send the proposal forward to the Select Board and a vote this spring.

Discussion: Mr. MacLean hopes that the Board would take advantage of holding the Public Hearings before making this decision so they can have the opportunity to hear from the public.

VOTE: 6-1-0 with Mr. MacLean opposed

Further Discussion: Mr. Householder had asked that the above Motion be amended to include a statement that the Board would be inviting members of the Downtown Business Association (DBA) to participate in work on the proposal. Mr. MacLean suggested that a separate resolution could be made addressing the Board's intent with regard to the proposal, and the Motion was not amended. The Board can let this proposal sit until later in the summer and see if anyone is still interested in pursuing the proposal, or they could form a subcommittee now and invite people to participate. Mr. Nims suggests that the Board does not have to make that decision this evening; since they are not on the June schedule any longer, there is plenty of time to do that later.

Mr. Lindsley does not want to leave the issue before deciding. He wants to move now while there is interest. The secret is to get as many people and groups feeling that this is a good thing. Right now there are some that are feeling that this proposal was done in secret – accurate or not – and involving all kinds of people will help get the true picture out. He suggests that the group should have a member of the Select Board, the Harbor Committee, the Historical Committee, the DBA, CEDAC, and others who will have a say.

Mr. Householder: It is not productive to set it aside for any length of time. There should be a subcommittee representing different groups – maybe not of the magnitude Mr. Lindsley was suggesting, but they should continue to discuss it while it is on the minds of everyone in Town. Others agreed.

Deb Dodge, Select Board Liaison, was asked for her opinion: She agrees that broadening the group is a good idea. The Historic Resources Committee is very interested in continuing the early discussions about preserving the historic aspects of downtown. (Ms. Dodge was not at the microphone and the remainder of her comment was not audible).

Mr. Sargent: Thinks it is good to continue now while they have people's interest. It would probably take a month to figure out who the volunteers will be from the various organizations, and when they can get together. He thinks there should be representatives from various groups.

Mr. Householder and Mr. Lindsley agreed to participate on the subcommittee as Board members. Suggested groups to be represented: CEDAC, DBA, Historic Resources, (Ms. Dodge made suggestions but her comments were not audible). She did say that she thought that including a member of the DBA would let them know that the Board is being responsive to their concerns.

Mr. Sargent noted that the DBA has been asked before to come to the Board with ideas that would help businesses, and although there has been a representative at many Board meetings taking information back to the association. The DBA had been asked to participate during the process, but members gave no real input until the job was nearly finished. He doesn't know how the Board gets the participation - if this process is going to work communication has got to go both ways.

Mr. Householder asked for the Board's comments on his draft of a Purpose Section – he would like something back in a month. (There were some comments – Mr. Nims suggested that the sentence “The Design Standards are uniformly applied to all businesses” is not so. He suggests rewording that sentence since they will apply only to those making changes – it applies to the building in any case not the businesses. Others made suggestions as well and Mr. Householder was asked to make those changes and come back to the Board so they can work on this section.

Other Ordinance Amendments:

Amendment #6: Amend Article V, (Permits required) Section 2...

The CEO explained a change to the Use Permit proposal: With Attorney Kelly's assistance he had rewritten the last sentence of the proposal to include a change of majority ownership or a modification that is subject to an ordinance requirement.

Mr. Sargent noted that one message received loud and clear at the DBA meeting last evening was that it is not clear what a change of use is – when will this apply? The CEO is satisfied that the change gives the Town jurisdiction to deal with changes and to ask for more information so he can make the decision on whether or not the change can go forward. Mr. MacLean thought that leaving it a little up in the air means that people may come to see the CEO when it isn't perfectly clear whether or not the section applies – that may not be a bad thing.

Mr. Householder asked if the Board was going to add a definition for Change of Use. Mr. MacLean replied that it would be impossible to imagine every kind of change. If it is left more vague people, if they are in doubt, can go check with the CEO.

Mr. Nims suggested that a Change of Use is a change from one of the uses defined in the Ordinance to a different defined use. But, the purpose of this provision is to go beyond that and catch changes that don't fit defined categories but are still substantial changes worth reviewing – a new owner, a change to the business, etc. The obstacle will be promulgating this information to the right parties. Mr. Nims suggested that one way is to contact new owners of businesses that come to light when a new deed comes into the office; another is to contact existing business owners to inform them – perhaps using the DBA to help with this would help as well.

7. *Amend Article VI, Section 2(1)(a), second paragraph...* DEP required Shoreland change – the date (June 12, 1990) that will determine which lots are affected has been supplied by DEP.

10. *Amend Article X, Part I, Section 1(9)(j)...*

Shoreland: Change requested by CEO requiring a survey in certain shoreland setback cases. The Chair had recommended wording stating that Applicant is responsible for paying for the work, but Bill Kelly did not think it was not necessary to include this language. He did think it was necessary to clarify the term “apparent edge of wetland” by noting that it would be by visual inspection.

14. *Article VI, Section 2(1)(a)??*

This is a whole new amendment: The DEP relaxed the SLZO in response to a legislative mandate, and created the ability for some property owners to break apart their multiple-lot properties even if the resulting lots did not meet current minimum lot sizes. The attached map shows the typical situations this would address regarding the ability to re-create lots that would become non-conforming *if* there was sufficient room for separate subsurface disposal systems. Previous to a former SLZO change, these lots, if they existed prior to Shoreland Zoning, would have been grandfathered and buildable – no matter the size - as long as they could support a septic system. Currently, “the stricter of the two” clause applies to differences between the town's and the State's conflicting language. In Camden a 60,000 SF minimum lot size applies, but with this proposed amendment in place, the lots could meet the reduced minimum lot size of 20,000 SF as long as all the other ownership and pre-ordinance eligibility requirements are met.

Mr. Nims was not aware at the time the last amendments to the SLZO were made that the previous grandfathering provision would be overridden, or he would have suggested this change at that time. Now someone who had a lot that was buildable before the passage of the initial SLZO has lost the ability to build on that lot. They came to him asking for clarification of whether or not they could consolidate the lots. Taking away a property-owner's ability to build has always been seen as a matter of unfairness, and this change will correct that situation.

Board members were concerned that this amendment is coming to them at the request of just one landowner. Mr. MacLean sees the provision as going against the intent of the SLZO to protect Shoreland because it would allow more development along the shore. Mr. Nims had checked with DEP to get their opinion of this change, and they had no concerns because the provision will apply in very limited circumstances. The Board agreed that it was too late to move forward with this amendment for June, and they will add to the list of other changes that need attention.

MOTION by Mr. Sargent seconded by Mr. Householder to move the proposed amendments forward to Public Hearing on March 3, 2010.

VOTE: 7-0-0

DISCUSSION:

1. *Site Plan Review pre-applications:* There were none.
2. *Minor Field Adjustments:* There were none.

There being no further business before the Board they adjourned at 8:35 pm.

Respectfully submitted,
Jeanne Hollingsworth, Recording Secretary
As transcribed from DVD